

## **Local Program Report to the SCC**

### **Town of Southern Pines Follow Up, May 23, 2024**

On February 21, 2024, a report was presented to the Sedimentation Control Commission (SCC) based on the formal review of the Town of Southern Pines Erosion and Sedimentation Control Program conducted on November 1, 2023. The Commission voted to continue delegation with review with a follow up review to be presented during the 2024 Q2 meeting on May 23, 2024. During the initial review in November the following programmatic issues and corresponding corrective actions were noted:

#### **Issues Noted and Required Actions:**

- Once a complete package was received plans were reviewed and comments were sent back to the applicant. However, notification of the official review decision was not always sent within the appropriate timeframe.
  - Staff should ensure that the plans are reviewed and notice of the review decision is being sent within the appropriate timeframe.
- Written consent from the landowner for the applicant to submit the erosion control plan and conduct the land disturbing activity was not always obtained.
  - When the landowner and FRP differ, written consent from the landowner shall be obtained and retained in the project file.
- Seeding specifications and specific maintenance notes for some proposed measures were not included in all plans. One plan contained items, such as silt fence and the limits of disturbance, drawn at a scale which made distinguishing between them difficult when printed out as a full-size plan set.
  - Staff should ensure that plans include all the necessary details and specifications. Staff should also ensure that all items of the plan are drawn at a scale that is clearly visible when printed.
- The Town is conducting frequent inspections and documenting their findings within an internal log. Official inspection reports are only being generated if an NOV is to be issued.
  - The Town should document inspections in writing, including electronic documents. Inspection reports shall include, at a minimum, all information in the model sedimentation inspection report developed by the Commission.
- Certain sections of the local ordinance are devoid or no longer adhere to the most recent state statutes and administrative code.
  - The Local ordinance should be updated to reflect the most recent state statutes and administrative code pertaining to that which constitute your delegation authority for erosion and sedimentation control.

#### **Follow Up:**

During the Continued Review period, Town staff have provided updates on implementation of the changes needed and discussed during the initial review. The Town has adjusted their plan review checklist to ensure that landowner consent is obtained when necessary. The Town has also begun documenting formal inspections with a formal inspection report. Staff stated that a

formal inspection is now conducted at least monthly on each project, although staff are often onsite more frequently and communication is ongoing with the contractors and developers. Throughout the continued review period, staff have provided updates on the projects reviewed during the initial review and formal inspection reports generated. DEMLR staff also conducted a day of joint inspections in March. During the continued review period from February through April 2024, the Town conducted 5 plan reviews and re-reviews and issued 4 approvals and 1 disapproval. The Town has conducted 53 formal inspections and issued 4 NOVs and no CPAs. As of May 1, 2024, the Town reported that they have 23 open projects.

#### **Hawthorne At Southern Pines:**

This project had previously been disapproved and the revised plan package was received, reviewed, and approved during the continued review period. This project consists of 27.10 acres disturbed for commercial development and is located within the Upper Cape Fear Subbasin of the Cape Fear River Basin. The complete revised plan package was received by the Town on 3/15/2024. The Town issued the letter of approval for this plan on 3/21/2024. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed and the FRO form. The plan was reviewed, and the notice of the official review decision was sent to the applicant within the appropriate timeframe. Staff ensured that seeding specifications and maintenance notes were included within the plan prior to approval. The approved plan appeared to be adequate.

#### **Water Works Ph. 1:**

This project consists of 6.28 acres disturbed for commercial development and is located within the Upper Cape Fear subbasin of the Cape Fear River Basin. On the day of the initial audit, this site was out of compliance needing to stabilize large stockpiles onsite and perimeter slopes. Drop inlet protection measures also needed to be maintained and repaired. At the time the project was transitioning between contractors and the Town worked with the new contractor to address a number of issues left by the previous contractor. The Town continued to monitor this site and issued an NOV on 1/5/2024 for failing to stabilize slopes within the appropriate timeframes, needing to repair the diversion ditches and sediment being tracked out onto the adjacent roadway. The Town conducted a follow up inspection on 1/12/2024 and noted that recently graded slopes where the stormwater infrastructure had been installed had been seeded and mulched with straw or matted. The area of stockpiled materials at the top of the site remained uncovered. Some sediment was accumulating in the roadside ditch below the construction entrance and the entrance itself still needed to be refreshed. Staff noted that the majority of this sediment in the ditch appeared to be coming from somewhere upslope of the site but directed the contractor to remove accumulated sediment and repair the ditch along the areas within the LOD. During this time, staff stated that the US Army Corps of Engineers (USACE) and DWR were coordinating with the contractor to clean up the sediment loss into a wetland area that was noted prior to the initial review. The Town conducted formal inspections on this site on 3/4/2024 and 3/19/2024 and noted that the site remained out of compliance needing to maintain the construction entrance and stabilize the areas of stockpiled materials at the top of the site if not being actively graded. Staff did note that drop inlet protection measures had been maintained properly during the 3/19/24 inspection. During the most recent inspection conducted

by the Town on 5/6/2024, the areas of stockpiled materials had been graded and matted and slopes throughout the site were being vegetated. Staff noted that the site remained out of compliance, needing to again maintain the construction entrance and properly install the riprap dissipator of the stormwater system outlet. Staff stated that while corrective actions were continually being completed following the issuance of the NOV, the site remained out of compliance overall and the NOV was not closed out. No additional offsite sedimentation was noted during the continued review period.

#### **1. Morganton Park South Phase 1:**

This project consist of 28.0 acres disturbed for commercial development and is located within the Lumber subbasin of the Lumber River Basin. On the day of the initial audit, this site was out of compliance needing to stabilize or remove the stockpile onsite and maintain inlet protection measures throughout. The Town conducted formal inspections on this project on 12/14/2023 and noted that corrective actions noted during the initial audit had been completed and the site was back into compliance. The Town conducted an inspection on 1/4/2024 and noted that the permanent SCM pond had been converted to the permanent measure depths, the parking areas had been paved, and disturbed areas were being stabilized. During the most recent inspection conducted by the Town on 5/3/2024 staff noted that while this site was nearing completion, inlet protection measures needed to be reinstalled until permanent stabilization or final landscaping had been completed.

#### **2. Fort Bragg Federal Credit Union:**

This project consists of 1.88 acres disturbed for commercial development and is located within the Lumber subbasin of the Lumber River Basin. On the day of the initial audit, this site was in compliance. The Town conducted inspections on 12/13/2023, 1/10/2024 and noted the site remained in compliance. Staff conducted a formal inspection on 3/12/2024 and found the site out of compliance needing to maintain the construction entrance and clean sediment that had moved into the roadway during installation of the sidewalk. During the most recent inspection conducted on 5/3/2024, staff noted the need to provide additional groundcover along the completed section of sidewalk as grass had not been established.

#### **Conclusion:**

Throughout the continued review period, the Town has provided updates on the projects reviewed during the initial review and has uploaded formal inspection reports generated. Staff are now generating official inspection reports during monthly inspections and when issues are noted onsite. The Town continues to be onsite more frequently and will often communicate minor maintenance needs or repairs to onsite personnel. The Town has updated their plan review process and are ensuring that plans are reviewed and notice of an official review decision is being sent within the appropriate timeframes. Staff have also adjusted their plan review checklist to ensure that all necessary items are included in the complete package prior to approving a plan. The recently approved plan and project file reviewed appeared to be adequate. Staff conducted the review and sent notice of the review decision within the appropriate timeframe. The Town has updated the local ordinance in accordance with the most recent Model Ordinance. State and Town staff have discussed the need to distinguish between the violations of an NOV and when

new violations may arise as the NOV is being addressed. An NOV should be closed once the corrective items noted in the NOV have been addressed, rather than leaving an NOV open due to maintenance or repair needs which have arisen following its issuance. If additional violations have occurred, a Notice of Additional Violations should be issued. On a separate project which is currently under an NOV, the Town recently disapproved a new plan submitted by the same FRP for failing to resolve the NOV within the specified timeframe. The ability to disapprove a plan for these reasons is an additional tool to bring sites into compliance which is delegated to the Town through the SPCA. Overall, the Town has demonstrated the ability to conduct adequate inspection and plan reviews and has shown the ability to implement their locally delegated program.

DEMLR staff recommend to Continue delegation of the Town of Southern Pines Erosion and Sedimentation Control Program. This report has been prepared based on the formal review of the Town of Southern Pines Erosion and Sedimentation Control Program conducted on November 1, 2023, and the subsequent continued review period. This report will be presented to the Sedimentation Control Commission during its 2024 Q2 meeting on May 23, 2024.